



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/728,188	12/01/2000	Zefu Chen	6122/62344	4504
7590	08/26/2004		EXAMINER	
JAY H. MAIOLI Cooper & Dunham LLP 1185 Avenue of the Americas New York, NY 10036			LUGO, CARLOS	
			ART UNIT	PAPER NUMBER
			3676	

DATE MAILED: 08/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/728,188	CHEN ET AL.
Examiner	Art Unit	
Carlos Lugo	3676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 05 May 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-6 and 8-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-6 and 8-10 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 01 December 2000 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

1. This Office Action is in response to applicant's amendment filed on May 5, 2004.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
3. **Claims 1,3-6 and 8-10 are rejected** under 35 U.S.C. 103(a) as being unpatentable over the admitted Prior Art disclosed from Page 2 Line 15 to Page 3 Line16 and illustrated on Figure 1 in view of US Pat No 4,527,711 to Harrell.

Regarding claims 1,3,4,8 and 9, the prior art discloses a cover latch comprising a plastic pushing bar (2), a handle attached to one end of the bar and a support member attached to the other end of the bar. The latch further comprises a plurality of latches (6) attached to the support member and a plurality of springs (4) attached to the support member.

However, the Prior Art fails to disclose a pushing assembly having a thin pull rod having a circular cross section and a handle attached to the center of the pull rod. The Prior Art discloses pushing assembly having a plastic push bar having a handle. The parts are in an opposite position in order to perform a push action. However, applicant is reminded that the reversal of components in a prior art reference, where there is no disclosed significance to such reversal, is a design

consideration within the skill of the art. In re Gazda, 219 F.2d 449, 104 USPQ 400 (CCPA 1955); In re Japikse, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950).

Harrell teaches a cover latch for a container comprising a thin pull rod (11) that has a circular cross section, having a handle (12) attached to the center of the pull rod.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have reverse the components of the latch, in order to have a pull assembly, because it will be consider as a reversal of components, from pushing to pulling, that will not affect the disengaged of the latches from the catches in order to open or close the cover.

Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have a thin rod, as taught by Harrell, into a device as described by the Prior Art, in order to move the latch assembly smoothly.

As to claim 5, the Prior art illustrates that the support member is formed in a U-shape.

As to claim 10, the Prior Art illustrates that the support member and the plurality of latches and springs are formed as a single unit.

4. **Claim 2 is rejected** under 35 U.S.C. 103(a) as being unpatentable over the admitted Prior Art disclosed from Page 2 Line 15 to Page 3 Line16 and illustrated on Figure 1 in view of US Pat No 4,527,711 to Harrell, as applied to claim 1, and further in view of US Pat No 4,129,325 to Hern et al (Hern).

The Prior Art, as modified by Harrell, discloses the invention substantially as claimed. However, the combination fails to disclose the use of an O-ring arranged around the rod to seal an opening in the dispenser.

Hern teaches that a latch mechanism comprising an O-ring (element 86) arranged around the pull rod (element 70) to seal an opening (on the wall 24) through which the rod is pulled using the handle is known in the art.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a similar seal element like the one illustrated by Hern, into the combination, in order to prevent humidity or any other element to enter the dispenser.

Response to Arguments

5. Applicant's arguments filed on May 5, 2004 have been fully considered but they are not persuasive.

Regarding arguments that the Prior Art presented in Figure 1 is the exact opposite of the structure provided by the applicant (Page 5 Line 8), this statement is the reasons for the rejection. The applicant just reverses the components of the Prior Art in order to have a push assembly instead of a pulling assembly. The mere fact that the applicant changes the action of how the latch is going to be operated does not give any patentable weight because the latching and unlatching of the latch will not be affected (the engagement of the latches with respect to the keepers of each one).

As to applicant's arguments that the use of Harrell is improper (Page 6 Line 2), Harrell is still used in the rejection. Harrell is only used to teach a dispenser that in order to open, a user just pull a thin pull rod with one or either both hands. Harrell does not need to teach that the rod is made of plastic, because the Prior art already discloses this limitation.

As to applicant's arguments of obviousness (Page 6 Line 13), a conclusion of obviousness may be made from common knowledge and common sense of the person of ordinary skill without any specific hint or suggestion in a particular reference. *In re Bozek*, 416 F. 2d 1385, 1390 163USPQ545, 549 CCPA 1969.

As to applicant's arguments that Hern does not disclose a thin plastic rod (Page 7 Line 7), Hern does not need to teach that limitation. Hern is used just to teach that it is well known in the art to have a seal around a pull rod of a pull latch assembly.

As to applicant's arguments regarding the rejection to the claims in view of Wade, as modified by Harrell and Hern (Page 7 Line 14), the rejection is withdrawn.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed,

and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number is 703-305-9747. The examiner can normally be reached on 9-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 703-308-2686. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

Cl.

Carlos Lugo
AU 3676

August 13, 2004.



DANIEL P. STODOLA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600